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Message Text

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ACTION L-03

INFO OCT-01 ARA-10 EUR-06 ISO-00 JUSE-00 SCA-01 DRC-01

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FM AMEMBASSY PARIS
TO SECSTATE WASHDC 7810
INFO AMEMBASSY SANTO DOMINGO

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E.O. 11652: N/A
TAGS: CGEN
SUBJECT: EXTRADITION CASE OF JOSE RAMON DEL ORBE DE LA CRUZ

REF: PARIS 3745

1. BY NOTE NO. 4636 OF MARCH 5, 1974 MINISTRY OF FOREIGN AFFAIRS INFORMED EMBASSY THAT BY DECREE OF FEB. 11, 1974 CHAMBRE D'ACCUSATION DE LA COUR D'APPEL DE PARIS DENIED OUR REQUEST FOR EXTRADITION OF DOMINICAN NATIONAL JOSE DEL ORBE DE LA CRUZ.

2. NOTE STATES THAT COURT DETERMINED THAT "DEL ORBE DE LA CRUZ ENJOYED REFUGEE STATUS IN CONFORMITY WITH DISPOSITION OF ARTICLE I, PARA 2 OF GENEVA CONVENTION OF 1951 AND THAT UNDER THESE CIRCUMSTANCES HIS EXTRADITION COULD NOT BE GRANTED". NOTE CONCLUDED THAT "THIS DECISION IS FINAL".

3. FOR PAST THREE WEEKS EMBASSY HAS BEEN TRYING TO OBTAIN FROM FONOFF ADDITIONAL INFORMATION WHICH WOULD EXPLAIN THE COURT'S REASONING. WE HAVE ALSO SOUGHT TO CLARIFY APPLICABILITY OF PROVISION OF GENEVA CONVENTION QUOTED ABOVE WHICH REFERS TO "EVENTS OCCURING BEFORE 1 JANUARY 1951". WITH RESPECT TO LATTER POINT, FONOFF
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EXPLAINS THAT PROTOCOL PUBLISHED IN OFFICIAL JOURNAL

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OF FRANCE ON APRIL 18, 1971 EXTENDED APPLICABILITY OF ARTICLE I PARA 2 OF 1951 GENEVA CONVENTION TO EVENTS OCCURING AFTER 1951.

4. ON FIRST POINT EMBASSY HAS NOT YET BEEN ABLE TO OBTAIN SATISFACTORY EXPLANATION. WE HAVE POINTED OUT THAT PRESUMABLY DEL ORBE DE LA CRUZ WAS DETERMINED TO BE POLITICAL REFUGEE FROM HIS COUNTRY OF NATIONALITY, NAMELY DOMINICAN REPUBLIC, AND NOT FROM U.S. UNDER THESE CIRCUMSTANCES, WE HAVE ASKED WHY HIS REFUGEE STATUS SHOULD BE A BAR TO HIS EXTRADITION TO THIRD COUNTRY, NAMELY U.S. FONOFF SAYS IT IS SEEKING CLARIFICATION ON THIS POINT BUT DOES NOT EXPECT TO HAVE ANY ADDITIONAL INFORMATION UNTIL OFFICER HANDLING CASE (JEANNOT) RETURNS FROM VACATION NEXT MONTH.

5. FONOFF OFFICIAL DID GO SO FAR AS TO SPECULATE THAT COURT MIGHT HAVE CONSIDERED THAT CASE FELL WITHIN ARTICLE IV PARA 4 OF EXTRADITION CONVENTION SUPPLEMENT OF FEB. 12, 1970 WHICH BARS EXTRADITION WHEN OFFENSE IS OF POLITICAL CHARACTER OR IF SUBJECT PROVES THAT REQUISITION FOR HIS SURRENDER HAS IN FACT BEEN MADE WITH A VIEW TO PUNISH HIM FOR OFFENSE OF POLITICAL CHARACTER. EMBASSY WISHES REITERATE THAT FOREGOING EXPLANATION IS SPECULATIVE AND THAT ANY DEFINITIVE EXPLANATION OF COURT'S RATIONALE WILL PROBABLY NOT BE FORTHCOMING FOR ANOTHER TWO WEEKS.

6. FONOFF DID MAKE CLEAR THAT WHEREAS EXECUTIVE BRANCH OF FRENCH GOVERNMENT COULD REVERSE COURT DECISION FAVORABLE TO EXTRADITION REQUEST, IT HAD NO SUCH POWER WHEN COURT DENIED REQUEST, AS IN DEL ORBE DE LA CRUZ'S CASE. THIS EXPLAINS WHY NOTE SAYS DECISION IS FINAL.
STONE

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